

STATE OF HAWAII  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
PUBLIC WORKS DIVISION  
Honolulu, Hawaii 96813

November 10, 2011

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

OAHU

Issuance of a sublease to Showcase Hawaii Productions LLC., a Hawaii Limited Liability Company for a museum gift shop, production of media advertisements, and related retail and office uses at the No. 1 Capitol District (formerly the Hemmeter Building), Honolulu, Oahu, Tax Map Key: (1) 2-1-17-001.

APPLICANT:

Showcase Hawaii Productions LLC. (Showcase Hawaii), 520 Lunalilo Home Road, unit 7118, Honolulu, Hawaii 96825, as Tenant.

CONTROLLING AGENCY AND LEGAL REFERENCE:

The Department of Accounting and General Services (DAGS) is the lessee under a Chapter 37D, Hawaii Revised Statutes (HRS) financing agreement, which was used to initially purchase the building around December 2000. Funds for the purchase were raised through the issuance of certificates of participation (COPs). The COPs was refinanced in November 2009, but did not change the remaining term of agreement. When all lease payments are made over the remaining 9 years, title to the property will be transferred to the Board of Land and Natural Resources (BLNR). The BLNR will then be asked to recommend to the Governor, the set aside of the property to DAGS.

Under Chapter 26-6, HRS, DAGS has the authority to operate and manage public buildings. The Friends of the Hawaii State Art Museum (Friends) was established as a nonprofit group pursuant to Chapter 9-23, HRS, to work effectively with DAGS, the State Foundation on Culture and the Arts (Foundation) to enhance and support the work of the Hawaii State Art Museum (HISAM), its ancillary programs, and amenities. The statute allows the Friends of HISAM to operate concessions or other for-profit business enterprises within or on the grounds of the state art museum as directed by the Foundation, or to enter into contracts as approved by and with the Foundation, for the operation of such enterprises. Funds generated by the Friends of HISAM shall be used as supplemental funds that may be expended for the following purposes:

1. Employing personnel as required to operate and maintain the museum and ancillary programs for education, cultural, and promotional purposes;

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2. Planning and development of state art museum programs;
3. Construction, repairs, replacements, additions, and extensions of state art museum facilities;
4. Operational and maintenance costs of the state art museum and ancillary programs and amenities;
5. Administrative costs of the state art museum; and

ZONING:

State Land Use District: Urban and located in the Capitol  
Special Design District  
City & County of Honolulu  
CZO: BMX-4 (Central Business mixed use)

TRUST LAND STATUS:

Acquired after Statehood.  
DHHL 30% entitlement lands pursuant to the Hawaii State  
Constitution: YES NO X

CURRENT USE STATUS:

Various state agencies currently occupy the building's leasable space, including the State Foundation on Culture and the Arts (Foundation), which is administratively attached to DAGS. The Hawaii State Art Museum (HISAM) occupies a major portion of the second floor and is run and operated by the Foundation. The café (Downtown at the HISAM) operates on the ground floor and is located adjacent to Showcase Hawaii Productions, LLC.

LOCATION AND AREA:

Premises located on a portion of the ground floor of the No. 1 Capitol District, comprising approximately 660 square feet, and a 160 square foot storage room, at 250 South Hotel Street, Honolulu, Hawaii 96813, (See Exhibit A)

TERM:

Three (3) years, subject to termination of either party with thirty (30) days' prior notice to the other party, and subject to the approval by the Board of Land and Natural Resources.

RENT AMOUNT:

The proposed monthly rent is \$200.00 per month, plus percentage rent as follows: five percent (5%) of Tenant's monthly gross sales between \$10,000 to \$15,000 for each month, and ten percent (10%) of Tenant's monthly gross sales over \$15,000 for each month, plus G.E.T. Tenant also pays \$175 per month for the cost of utilities, subject to biannual review and adjustment, as determined by the Friends. However, in no event will the utility cost be more than \$250 per month.

CHAPTER 343 ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Accounting and General Services (DAGS) and approved by the Environmental Council and dated June 26, 1996, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing".

The proposed activity has historically and routinely occurred and continues to occur on this property. Such activities have resulted in no known significant impacts, whether immediate or cumulative. As such DAGS believes that the proposed use would involve no change in use of the subject space beyond that previously existing.

REMARKS:

A sublease for the café was previously approved by the Board of Land and Natural Resources at its meeting held on February 9, 2007.

Also, the Land Board previously consented to two (2) previous revocable permits to Showcase Hawaii due to the desire of the parties for a short term arrangement (the current permit expires November 20, 2011). Showcase was not able to maintain its rental payment obligations under the first permit despite monthly gross sales of between \$4,000 to \$10,000. This was due to high overhead, low visitor counts to the museum which limited sales, and Hawaii's lingering recession. Due to the restructuring of the rent and marketing efforts to increase visitor counts to the museum, the Tenant has been able to pay back most of the back rent and has kept up with its current monthly rental payments.

The issuance of a sublease will give Showcase Hawaii a longer term commitment and opportunity for success, and at the same time, continue to have a presence during the busy holiday season. The Friends and the Foundation feel that the presence of the gift shop supports the functional success of the Hawaii State Art Museum. They both support Showcase's mission to highlight the art and artists of Hawaii, and professionally represent their products and the collections of the museum.

The new sublease with Showcase Hawaii will be subject to the terms and conditions of the Lease Purchase Agreement, which is the financing lease that the State entered into to acquire the property. If there are any conflicts between this Revocable Permit and the Lease Purchase Agreement, the terms of the Lease Purchase Agreement shall prevail.

Under the lease financing arrangement using certificates of participation (COP) investors receive exemptions from federal income tax. This exemption can be jeopardized should the State permit an excessive amount of non-government use in the building. DAGS has reviewed this proposed leasing arrangement with the Department of

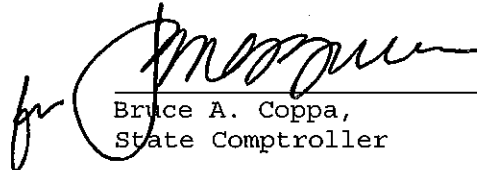
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Budget & Finance's General Advice Counsel for compliance and to maintain tax benefits for the investors.


RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Consent to the sublease by DAGS and the Friends, as Landlords, and Showcase Hawaii Productions LLC as Tenant, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following:
  - A. Review and approval by the Department of the Attorney General as to form for the sublease;
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
\_\_\_\_\_  
Bruce A. Coppa,  
State Comptroller

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
William J. Aila, Jr., Chairperson  
For

Richards Street

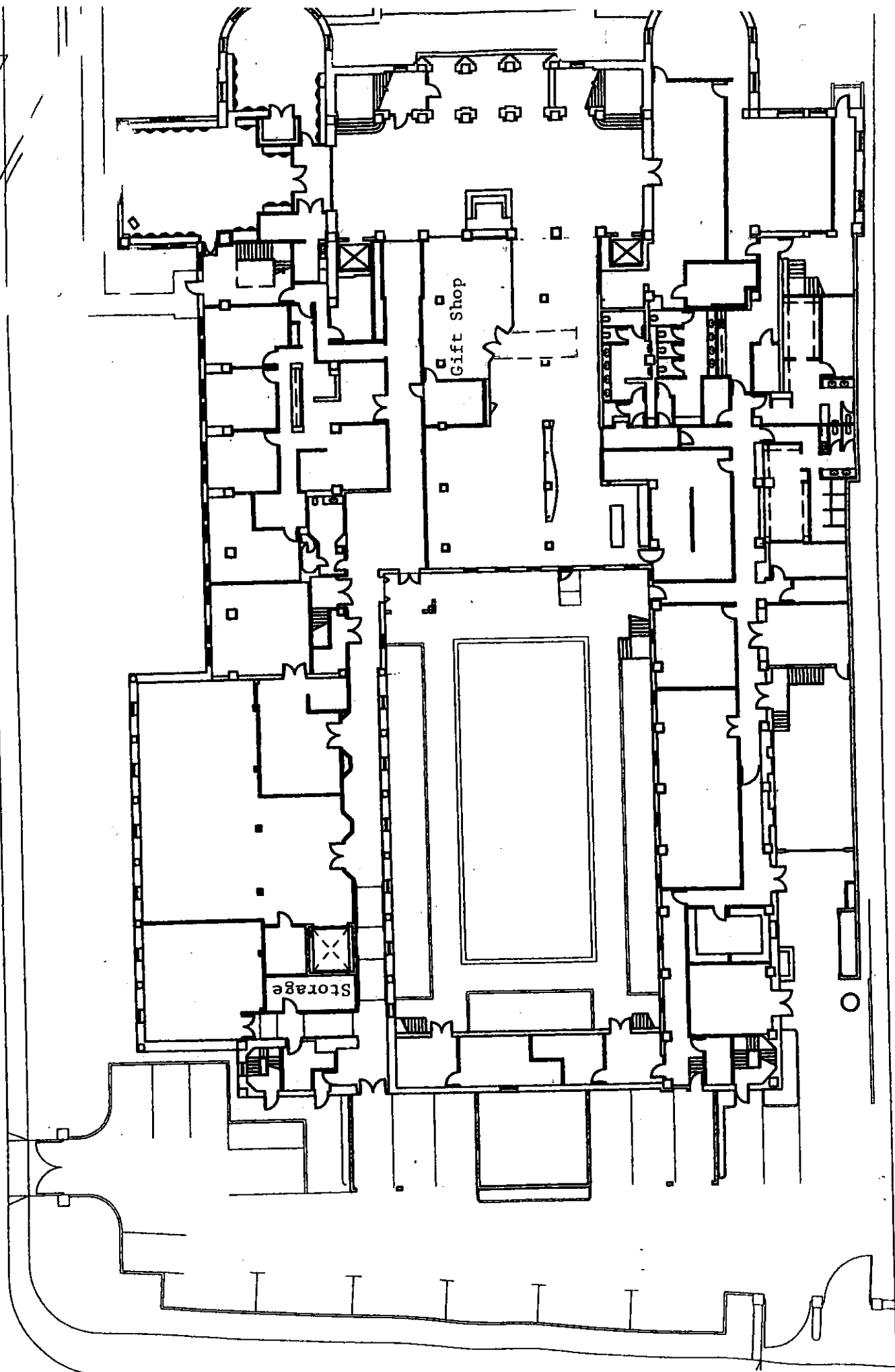


EXHIBIT A

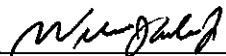
## **EXEMPTION NOTIFICATION**

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Issuance of a Sublease to Showcase Hawaii Productions LLC
Project/Reference Number:	DAGS Leasing Branch, No. 72-10-0580
Project Location:	Ground floor of the No. 1 Capitol District (formerly Hemmeter Building), 250 South Hotel Street, Honolulu, Hawaii 96813
Project Description:	Gift shop, production of media advertisements and related retail and office uses.
Chapter 343 Trigger:	Use of State Land
Exemption Class No.:	<p>In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Accounting and General Services (DAGS) and approved by the Environmental Council and dated June 26, 1996, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing".</p> <p>The proposed activity has historically and routinely occurred and continues to occur on this property. Such activities have resulted in no known significant impacts, whether immediate or cumulative. As such DAGS believes that the proposed use would involve no change in use of the subject space beyond that previously existing.</p>
Consulted Parties:	Department of Land and Natural Resources, Land Division

Recommendation:

It is recommended that the Board find that this request will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

  
\_\_\_\_\_  
William J. Aila, Jr., Chairperson

10/26/11  
\_\_\_\_\_  
Date